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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,359	10/03/2001	Christopher Jensen Read	SNY-R4742	1702

24337 7590 04/19/2007

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

EXAMINER	
SHIBRU, HELEN	
ART UNIT	**PAPER NUMBER**
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/970,359	READ, CHRISTOPHER JENSEN	
	Examiner	Art Unit	
	HELEN SHIBRU	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

TTQ 4/15/07 TTQ 4/16/07

4)☒ Claim(s) ~~*1-3,5,7-10,12,13 and 27-36*~~ 1-68 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration. 4, 6, 11, 14-26 and 37-68

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,7-10,12,13 and 27-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendments, filed 02/15/2007, have been entered and made of record. Claims 1-3, 5, 7-10, 12, 13 and 27-36 are pending.

Response to Arguments

2. Applicant's arguments filed on 02/15/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., instructing the switch to switch from playback of recorded content that is being played back from the PVR in "near real time"...as stated in page 14 paragraph 2 of the remarks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore Dumont discloses the switch is provided so that the user can select a video signal from the analog source, the digital source, or from the medium interface. It is well known in the art that the analog source, from antenna, and the digital source, from antenna or cable-link, do receive live video signal (see paragraphs 0032, 0033, and 0044).

In re page 14 the Applicant states "there is no teaching, suggestion or hint that the switch operation depends in any way, shape or form upon the user command for implementing a channel change."

In response the Examiner respectfully disagrees. If the user desires to watch the video signal from the analog source, from the digital source, or from the medium interface, she/he is

able to choose one of the sources (see paragraph 0043 and 0044). Hence out of the three paths only one path is selected at a time to playback video signal, and the user is able to change or switch from one source to another. Therefore the path is changed according to the selection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., 'there is no teaching or suggestion that the switching in the manner claimed can result in the increase in ***speed*** of a channel change in a PVR as thought and claimed by the Applicant' (emphasis added), see remarks page 14 paragraph 3 lines 4-6) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In re page 15 the Applicant states "Dumont fails to teach or suggest the connection between a change in channel and instructing the switch to switch as claimed"

The Examiner respectfully disagrees. See the response above.

In response to applicant's arguments against the references individually, (i.e. ' the Russo reference fails to provide the required teaching needed to fill this gap', Applicant attention is directed to page 15 paragraph 3 lines 5-6 of the remarks) one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The claimed invention does in fact read on the cited references for at least the reasons discussed above and as stated in the detail Office Action as follows.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3, 5, 7-10, 27-29 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumont et al (US PG PUB 2001/0007611A1) in view of Official Notice.

Claims 32-34 will be discussed first.

Regarding claim 32, Dumont discloses a personal video recorder device, comprising:

a tuner receiving a video signal input and producing a live video signal as an output (see analog source (12) in fig. 2 and paragraph 0032);

an analog to digital converter receiving the live video signal and converting it to a digital live video signal (see paragraph 0034 and digital encoder (16) in fig. 2);

a medium interface receiving and storing the digital live video signal input as it is produced by the analog to digital converter and providing as an output a stored

digital video signal (see fig. 2 and fig. 4 component 20 and paragraphs 0036 and 0043. If the user wants to record the video signal from the analog source 12 the first switch will connect the input 22 to point 26);

a digital to analog converter receiving the stored digital video signal and producing an analog video signal (see digital decoder 22 in fig. 2);

an output circuit that provides an output signal formatted for display on a video display (see display 25 and decoder 22 in fig. 2);

a switch (multiplexer 18) that routes a signal to the digital to analog converter (see fig. 2 multiplexer 18 and decoder 22);

a controller that directs the switch to provide one of the digital live video signal and the stored digital video signal to the digital to analog converter (see component 32 in fig. 3 or component 40 in fig. 4 and paragraphs 0041 and 0047. The user controls the switch to direct the switch to one of the sources or from the medium interface to the decoder); and

wherein the controller receives user commands and responsive to a user command to change a channel, commands the switch to route the digital live video

signal to the digital to analog converter (See figures 3 and 4 and paragraphs 0043 and 0044. The analog source 12 is an analog tuner receiving analog video signals from a remote emitter through the antenna. The user can change channels as he/she desires. If the user wants to record the video signal from the analog source 12 the first switch will connect the input 22 to point 26 in fig. 3 or 4. Otherwise input 22 will connect directly to the digital decoder).

Claim 1 differs from Dumont in that the claim further requires a disk drive. Although Dumont does not specifically discloses the medium interface is disk drive Official Notice is taken that it is well known in the art to substitute a drum carrying magnetic heads with a disk drive in order to record signals in high density storage medium.

Regarding claim 33, Dumont discloses the output circuit comprises a modulator (see paragraph 0037, the coded digital stream are converted to be displayed on a display).

Regarding claim 34, Dumont discloses the output circuit provides the output signal formatted as one of NTSC, PAL, DVI, and MPEG (see paragraph 0037).

Regarding claims 1-3, 8, 10, and 27, the limitation of claims 1-3, 8, 10 and 27 can be found in claim 32. Therefore claims 1-3, 8, 10 and 27 are rejected for the same reason as discussed in claim 32 above.

Claims 5 and 28 are rejected for the same reason as discussed in claim 33 above.

Claims 7 and 29 are rejected for the same reason as discussed in claim 34 above.

Regarding claim 9, the limitation of claim 9 can be found in claims 32 and 33. therefore claim 9 is rejected for the same reason as discussed in claims 32 and 33 above.

5. Claims 12-13, 30-31 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumont et al (US PG PUB 2001/0007611A1) in view of Official Notice and further in view of Russo (US Pat. No. 5,701,383).

Claims 35-36 will be discussed first.

Regarding claim 35, claim 35 differs from the above proposed combinations in that the claim further requires a command to implement an effect using disk drive. Dumont discloses the user controls the switch to select one of the signals as shown in fig. 3 and 4 wherein one of the signal is coming from the medium interface 20 (see also paragraphs 0041-0044).

In the same field of endeavor Russo discloses a video time shifting system characterized in having a continuous recording track. Russo further discloses the storage means takes the form of a continuous recording track in a magnetic disk drive (see abstract). Russo further discloses the system continuously records the incoming program selected by a user on an associated display device. If a program-control command is received, the system continues to store the incoming video program and keeps track of the exact position in the program associated with the activation of the particular command. When a pause is followed by a resume command, the program continues to be displayed from the point at which it was paused (see col. 4 lines 11-27). Therefore in light of the teaching in Russo it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify Dumont by providing a live pause effect in order to record a full length of program without discontinuity.

Claim 36 is rejected for the same reason as discussed in claim 35 above.

Claims 12-13 and 30-31 are rejected for the same reason as discussed in claim 35 above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571) 272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helen Shibru
April 16, 2007